

Manohar Lal vs. State of Rajasthan & Ors.

SB Civil 1st Appeal No.59/1987

Date of Judgment:

23th February, 2007.

PRESENT

HON'BLE MR.JUSTICE BHAGWATI PRASAD

Mr Rameshwar Chouhan for the appellant/s.
Mr.M.R.Singhvi for the respondent/s.

Heard learned counsel for the parties.

The present suit was filed by the appellant in relation to a dispute with the Excise Department . The suit related to recovery in relation to an order passed by the Excise Commissioner. That recovery was based on some licence fees etc. Under the Rajasthan Excise Act there is a bar regarding filing of civil suit in a matter where there is an order of the Excise Department Officials under Section 9B of the Rajasthan Excise Act 1950 (hereinafter referred to as 'the Act) , which reads as under:-

“[9-B. Bar of jurisdiction of
Civil Courts:

No civil court shall have jurisdiction to entertain any suit or proceeding to set aside or modify;-

(a) any original order passed by an officer competent to do so under the provision of the Act, or,

(b) any order passed under, or referred to in Section 9-A.”

In view of the provisions contained in Section 9 B (a) of the Act, the civil suit itself was not maintainable. Though the question was not raised at the time of contest of the civil suit but there being a legal bar the question was put forward. Learned counsel for the appellant was not in a position to satisfy the court that suit could be maintained.

In that view of the matter, the appeal itself arising out of a civil suit passed under Section 9B of the Act, the suit deserves to be dismissed. In that view of the matter, the civil suit is dismissed. Consequently, the appeal is also dismissed.

(BHAGWATI PRASAD), J.

